

REMARKS

Claims 1-17, 35-39 and 41-67 are pending in this application; Claims 18-34 and 40 have been withdrawn in light of the restriction requirement made in the Office Action mailed March 13, 2002. Claims 68-70 are newly added.

Claim 1-17, 38, and 41-57 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter applicant regards as the invention.

Claim 1 has been amended to delineate with specificity the method of the present invention.

As now recited in Claim 1, Applicant has discovered a method of making a segmented composition characterized by providing in segmented juxtaposition first and second components. The properties of the first and second components and the temperatures at which they are provided are such that heat is transferred from the liquid or dispersed first component to the liquid dispersed second component. The second component is further characterized by solidifying at a temperature that is at or above its liquefying/dispersing temperature.

It is pointed out that this behavior of the second component may be occasioned by gellation of the second component or by formation of a lattice type structure of one or more of the ingredients of the second component. See page 5, lines 5-10 of the specification. Applicant also notes that the terms "solidify" and "solidifies" encompass a semi-solid state as also defined at page 5.

It is this unusual property of the second component that forms the crux of the subject invention. Thus, advantageously, only the first component requires heating to effect melting, while the second component is provided in the liquid or dispersed state at a low temperature. This permits incorporation in to the second component any ingredient whose integrity might be compromised if subjected to heat, as set forth in the specification at page 12, first full paragraph.

Claim 1 has also been amended to recite the step of allowing the first and second components to reach room temperature. This step is believed inherent in the process, and is also supported in the specification at page 14, paragraph bridging to page 16.

Claims 41, 53, 54, 55, 56 and 57, dependent directly or indirectly from Claim 1, were also amended to improve clarity and

for consistency with amended Claim 1. In particular subparagraph (e) of Claims 53, 54, 55 and 57, and subparagraph (d) of Claim 56 were deleted as this step is believed encompassed in claim 1 by the step of "allowing heat to transfer...".

Independent Claim 35 has been amended to recite that the first component solidifies at a temperature at or below its liquefying/dispersing temperature, and that the second component solidifies at or above its liquefying/dispersing temperature. Claim 35 has been further amended to state that the first and second components form two discrete segments at room temperature.

Similarly, independent Claim 38 was amended to state that the first component is at a temperature above the temperature at which it is liquid or dispersed, and that the second component is at a temperature lower than its liquefying/dispersing temperature, the second component solidifying at a temperature at or above its liquefying/dispersing temperature. Claim 38 was also amended to change "including" to "comprising", which amendment is believed to overcome the rejection under 35 U.S.C. §112, second paragraph. Claim 38 was also amended to state that heat was "transferable" from the first to the second component, to delete the phrase "and coolness is... said first component", and to state that there are two discrete segments at room temperature.

In light of these amendments to Claims 35 and 38, the crux of the invention, namely, that the composition contains a second component that solidifies at a temperature above its liquefying/dispersing temperature is affirmatively recited.

Claims 35-39 drawn to segmented compositions and Claims 41-49 depending directly or indirectly from Claim 1 and drawn to methods of making a segmented composition were rejected under 35 U.S.C. §103, as obvious over U.S. Patent No. 5,688,839 (Royce) in view of U.S. Patent No. 5,721,306 (Tsipursky).

Royce discloses a composite product having a marbleized appearance obtained by compounding together an admixture of either (1) two types of colored accent resins, or (2) one type of colored accent resin with one type of background resin particle. Royce prepared the product by injection molding, by extrusion, or other conventional processes in which a first resin is dispersed in a second resin as a consequence of a differential in the rate of dispersion occasioned by different melt temperatures

Applicants' process and the resulting segmented compositions are quite different than the Royce product process. First, Applicants require that the second component solidifies above its liquefying/dispersing temperature. This permits solidification of

the second component as a consequence of heat being transferred from the molten first component to the second component. If the second component did not possess this property, the second component would remain in the liquid or dispersed state.

Royce's resins do not require this property. Rather, Royce prepares a blend of resin components. The subsequent extrusion or injection molding causes preferential melting, which causes dispersion of one of the resins. Both resins, however, melt when heated, in contrast to the second component of the present invention.

The Tsipursky reference discloses smectite clay dispersions, but does not teach the products of the present invention. The Examiner alleges that one of ordinary skill in the art would combine Tsipursky with the teachings of Royce to arrive at the claimed composition. This is not the case, however.

Royce is concerned with extrusion or injection molding of resin components, while Tsipursky concerns thixotropic carrier compositions comprising an organic solvent and exfoliated platelets of an intercalate formed by contacting a layered silicate material and an intercalate polymer. There is no assurance that the liquid polymeric composition of Tsipursky would

be suitable for the processes mentioned in Royce. Moreover, there is no disclosure in Tsipursky that the thixotropic composition has the requisite properties of the second component of the present invention identified above.

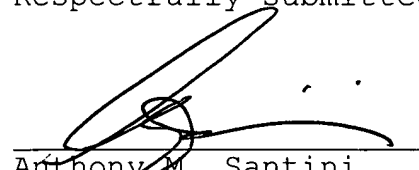
Method Claims 41-47 were similarly rejected as obvious over Royce in view of Tsipursky. For the reasons set forth above, it is believed that this ground for rejection is also inappropriate for these claims.

Applicants note that no rejection based on prior art was made against Claims 1-17 and 50-67. Applicants submit that these claims are patentable for the reasons set forth above.

Favorable reconsideration of Claims 1-17, 35-39 and 41-67 and consideration of new Claims 68-70, is respectfully requested.

Date: April 28, 2004

Respectfully submitted,


Anthony M. Santini
Attorney for Applicants
Reg. No. 31,299
Avon Products, Inc.
Avon Place
Suffern, NY 10901
Tel: 845-369-2493
Fax: 845-369-2900